



San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407
Web: www.sanbag.ca.gov



•San Bernardino County Transportation Commission •San Bernardino County Transportation Authority
•San Bernardino County Congestion Management Agency •Service Authority for Freeway Emergencies

DATE: March 5, 2007

TO: Highway Design Consultants and Environmental Consultants

FROM: Darren Kettle, Director of Freeway Construction

SUBJECT: Preliminary Engineering and Environmental Services for the I-15/I-215 Interchange at Devore

Attached with this cover memorandum is our Request for Qualifications (RFQ) for preliminary engineering and environmental services which includes the preparation of a Project Study Report (PSR), a Project Report (PR) and an Environmental Document (ED) for the improvement of the I-15/I-215 interchange in San Bernardino County. The purpose of this RFQ is to select a qualified firm able to produce the PSR, and the PR along with the ED. The firm will work and coordinate with San Bernardino County Transportation Authority (AUTHORITY), Caltrans, and the County of San Bernardino to complete the work described in the scope of Services.

Those firms or individuals intending to submit Statement of Qualifications (SOQ) should note the schedule contained in Section XII of the attached document. It is our intention, subject to Board approval, to have the selected firm under contract by July, 2007.

Firms will have access to the I-15 Comprehensive Corridor Study Report from March 6, 2007 through April 4, 2007. Please contact Ms. Deanne Oberdank or Ms. Christine Coleman at (909) 884-8276 to schedule a review.

Individuals and firms submitting SOQs for this project will be evaluated based on qualifications and experience on similar and relevant projects. Emphasis will be placed on the capabilities of key project individuals.

Also attached for your reference are the *draft* Scope of Services, a sample contract, and AUTHORITY's Consultant Selection Policy. These items may also be found on AUTHORITY's internet website: www.sanbag.ca.gov under "Latest RFP/RFQ Postings." Please check the website for schedule updates.

Eight (8) copies of the SOQ must be submitted to AUTHORITY's San Bernardino office by 12:00 P.M., Thursday, April 5, 2007.

Highway Design Consultants and Environmental Consultants
March 5, 2007
Page 2

Statement of Qualifications and correspondence shall be directed to:

Mr. Darren Kettle
Director of Freeway Construction
San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor
San Bernardino, California 92410-1715

All questions and comments regarding this Request for Qualifications or the project shall be directed to:

Mr. Dennis Saylor
Project Manager
(909) 884-8276

DK: DS
Attachment

cc: Jim Beers
Dennis Saylor
File 1031.1.1

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

REQUEST FOR QUALIFICATIONS

FOR

**PREPARATION OF PROJECT STUDY REPORT
AND
PROJECT REPORT AND ENVIRONMENTAL DOCUMENT**

FOR

I-15/I-215 INTERCHANGE IMPROVEMENTS

NEAR DEVORE

IN

COUNTY OF SAN BERNARDINO

Contract C07124

Issued: March 5, 2007

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

REQUEST FOR QUALIFICATIONS

FOR

**PREPARATION OF PROJECT STUDY REPORT
AND
PROJECT REPORT AND ENVIRONMENTAL DOCUMENT**

**I-15/I-215 INTERCHANGE IMPROVEMENTS
NEAR DEVORE, COUNTY OF SAN BERNARDINO**

I. INTRODUCTION

The San Bernardino County Transportation Authority (AUTHORITY), in cooperation with the California Department of Transportation (Caltrans), and the County of San Bernardino is soliciting Statement of Qualifications (SOQ) from all qualified firms to complete a Project Study Report (PSR), a Project Report (PR) and prepare an Environmental Document (ED) for improvements to the I-15/I-215 interchange near Devore in the County of San Bernardino.

The purpose of this RFQ is to select a qualified consultant able to assist AUTHORITY with all necessary activities in the development and approval of the PSR, PR, and ED for the I-15/I-215 Improvements Project.

The contract will be awarded without discrimination based on race, religion, color, age, sex, or national origin.

II. PROJECT AND SERVICE DESCRIPTIONS

At this time, the specific project limits are unknown, but will be developed during the engineering/environmental efforts associated with the project. The project is in the unincorporated township of Devore in San Bernardino County.

The project proposes to improve the I-15/I-215 Interchange by reconfiguration and lane addition, with or without additional truck bypass lanes. This project is identified as the highest priority need in the short term in the *I-15 Comprehensive Corridor Study* – a Major Investment Study (MIS) prepared for Southern California Association of Governments (SCAG), San Bernardino Associated Governments (SANBAG), and Caltrans District 8.

A complete reconstruction of the interchange is envisioned where the new design would allow the traffic on I-15 to pass through the interchange without changing lanes and without any lane drops. This reconstruction can proceed as a standalone project with its own independent utility and benefits regardless of the final Locally Preferred Strategy (LPS) selected for the I-15 corridor. Reconstruction with truck bypass lanes would further eliminate interaction of I-15 truck traffic from weaving automobile traffic merging and diverging to and from I-215.

SERVICES

AUTHORITY is soliciting firms for preliminary engineering and environmental services for the I-15/I-215 Interchange Improvements near Devore in San Bernardino County. The selected firm will be expected to perform the following services and activities:

- Prepare a Project Study Report per Caltrans current guidelines including the Project Development Procedures Manual.
- Prepare geometric drawings, advance planning studies, review and evaluate alternatives, define preliminary right-of way requirements, perform preliminary drainage studies, prepare preliminary schedules and cost estimates necessary to produce a project report (PR) through final approval.
- Define environmental requirements, develop the corresponding technical studies in support of the ED, and obtain project environmental clearance.
- Carry out the directions as received *only* from AUTHORITY's Contract Manager, or his/her designee. In addition, selected firm shall cooperate with all project stakeholders including the County of San Bernardino, Caltrans, and other consultants providing services for this project and related projects, as necessary.
- Sole responsibility for the accuracy and completeness of all deliverables and all supporting documents shall rest with the selected firms. All deliverables and supporting materials furnished under the scope of services shall be of a quality acceptable to AUTHORITY. The technical aspects of the deliverables shall be to Caltrans and the Federal Highway Administration (FHWA) standards.
- Support a Value Analysis study by providing information as needed and providing support on an as needed basis.
- Maintain a set of project files that are indexed in accordance with Caltrans' Project Development Uniform File System.

The detailed scope of services is included as Attachment A to the draft contract.

The Consultant shall provide evidence of the firm's ability to adequately and appropriately staff and manage the project. The Consultant should demonstrate its understanding of the scope and project approach.

III. APPLICABLE STANDARDS

The project study report, the project report and the environmental document shall be prepared in accordance with current CALTRANS regulations, policies, procedures, manuals, and standards including compliance with Federal Highway Administration (FHWA) requirements. Refer to CALTRANS' Project Development Procedure Manual – Chapter 9. Please see the Scope of Services for further description.

IV. MATERIALS FURNISHED BY AUTHORITY

All software, data, reports, surveys, drawings, and other documents furnished to the consultants by AUTHORITY for the consultant's use in the performance of services will be made available only for use in performing the assignment and shall remain the property of AUTHORITY. All such materials shall be returned to AUTHORITY upon completion of services, termination of the Agreement, or other such time as AUTHORITY may determine.

V. CALTRANS AND LOCAL AGENCY RELATIONSHIP

AUTHORITY, Caltrans and the local jurisdictions will work together to manage the consultant's work efforts. AUTHORITY will be responsible for, and will be the sole point of contact for, all contractual matters. Caltrans will be responsible for providing technical oversight of the consultant's work efforts. The consultant shall take direction from AUTHORITY and shall regularly inform both AUTHORITY and Caltrans of progress and of all outstanding issues.

VI. CONTRACT TYPE

AUTHORITY will enter into a cost reimbursable plus percentage earned fee contract, with a total not to exceed amount. The contract will be a task order based contract. Any services performed by the consultant that are not covered directly by the Scope of Services will not be reimbursed. It is the Consultant's responsibility to recognize and notify AUTHORITY when services not covered under the contract task order have been requested or are required.

VII. MINORITY BUSINESS OPPORTUNITIES AND LOCAL PRESENCE

No goals have been established for Disadvantaged Business Enterprises (DBE), Women-owned Business Enterprises (WBE), or Disabled Veterans Business Enterprises (DVE) in contracting activities. Because Measure I funds, and not Federal funds, will be utilized for the contract, no goals have been established. **Local and small business participation is encouraged, however, although there is no specific goal.**

For this contract there will be no local presence requirement or credit- i.e., **SANBAG's formal Local Preference Policy has been waived for this solicitation.**

VIII. STATEMENT OF QUALIFICATIONS INSTRUCTIONS

Statement of Qualifications (SOQ) will be accepted until **12:00 p.m. on April 5, 2007**. Eight (8) copies are required. AUTHORITY reserves the right to accept or reject late SOQs at its option. This should not be construed to mean that AUTHORITY will accept **any** late SOQ.

SOQs shall be delivered to:

Mr. Darren Kettle
Director of Freeway Construction
San Bernardino Associated Governments
1170 W. Third Street, Second Floor
San Bernardino, CA 92410

SOQs must contain the information listed below and must be compiled in the following format:

A. Cover Letter

Provide the following information:

- Summary description of the work to be performed by firm and each sub consultant firm proposed for the project and an estimate of the percentage of work to be performed by each firm.
- The location of the offices where the services are to be performed. If services are to be shared among firms and offices at different locations, indicate where each office is located and what services are to be performed in each office. For field personnel provide the location of the office where they will be based and from which office they will be managed.
- In accordance with AUTHORITY Policy No. 11000-R9, Sect. 7.A.2.f, provide a response to the following question: Has your firm ever been terminated from a contract? If the answer is yes, see item B below.
- A memorandum from a principal from each sub consultant firm indicating the specific portion of services the sub consultant will be performing.

B. Contract Termination Circumstances:

If consultant has ever been terminated from a contract, describe the facts and circumstances in detail, on a separate sheet. See policy for details.

C. U. S. General Services Administration Standard Form SF330:

“Architect-Engineer Qualifications”. The Form SF330 must conform to the following format:

1. Provide a separate Form SF330 for the prime consultant and each subconsultant. Subconsultants need not supply Sections C and H.
2. Prime consultants should list subconsultants in Section C.
3. Provide an Organizational Chart in Section D:
 - Provide a chart for the project.
 - Show the relationships between personnel and support staff who are expected to participate on the project.
 - For each person, indicate the firm with whom they are employed.
 - Show the aspects of the services each person will be responsible for performing.
4. List key personnel in Section E. Section E must conform to the following requirements:
 - Every person whose resume is provided in Section E must also be shown on the organizational chart. Resumes of persons who are not shown on the organization chart will not be considered.
 - Section E, number 13 must describe the function the person will be expected to fulfill in connection with the project.
 - Section E, number 17 must list the person’s active registrations in California, with the California Registration Number. Personnel (Resident Engineers / Inspectors) in

responsible charge of engineering services must be registered Civil Engineers in the State of California. Personnel in responsible charge of surveying services must be registered land surveyors or have a Civil Engineer license to do land surveying in the State of California.

- Section E, number 19 should provide a brief history of each person's relevant project experience, including descriptions of his/her role and tasks that he/she performed on each project. Also, identify key tasks each person was expected to perform for these projects under his/ her assigned function.

5. Section F should conform to the following requirements:

- Projects listed in Section F must be projects worked on by personnel shown on the organizational chart and whose resumes are included in Section E. For each project listed, the personnel included in Section E who worked on the project, and their project position must be shown.
- In Section F, number 23, include the owner's telephone number and the name of a contact person who can provide a reference. Also include the name and telephone number of the primary contact for the prime consultant, if necessary. Projects without references and telephone numbers will not be considered. List no more than ten projects.
- In Section F, number 24, describe the nature of the firm's responsibility and indicate whether the firm was the prime consultant or a subconsultant.
- In Section F, number 24, indicate the project value, the contract value, and the respective values (project and contract) for which the firm was responsible.
- Additional information may be provided in Section 8 to highlight or expand on experience from projects that are especially applicable to the proposed Scope of Services, including an indication of the scope of related services for which the consultant was responsible.

6. Section H should demonstrate the consultant's approach and understanding of the proposed scope of services. This section should provide a detailed discussion of the work tasks and management activities necessary for project completion. Discussion topics for consideration may include:

- Key project issues, constraints, and critical path items.
- Narrative discussing team organization, coordination, and information flow in reference to the proposed organizational chart.
- Technical and proactive approaches to key services.
- Unique team experience applicable to the proposed Scope of Services.
- Depth of personnel within the firm.
- Project Management, Quality Assurance and Control and control capabilities.
- Concurrent assignment of proposed key consultant and subconsultant personnel on other projects.

Where the Scope of Services does not adequately define the tasks required to provide complete professional services, provide descriptions of recommended additional services and programs. Include descriptions of proposed techniques or methods and procedures.

E. Contract Comments:

Provide a written discussion of any objections or concerns relative to the Terms and

Conditions of AUTHORITY's contract. Please note that AUTHORITY reserves the right to disqualify any consultant that does not provide a complete written discussion of its contractual objections or to disqualify any consultant based on objections that AUTHORITY considers non-negotiable. AUTHORITY does not anticipate making substantive changes to its Terms and Conditions.

F. Entire Statement of Qualifications:

The Consultant's SOQ package shall be limited to 40 (8 ½" x 11") pages single-sided. Charts, exhibits, and schedules may be included in 11" x 17" page format and shall be folded to fit into an 8 ½" x 11" sheet. The first 5 of these sheets will count as one (1) page. Additional sheets will be counted as two (2) pages. The page limit does not include the outside cover, section dividers, cover letters and subconsultant commitment memorandum, local presence reports, contract comments, or duplication of the organizational chart. SOQ's that do not contain the required information or do not contain the required number of copies, eight (8), may not be accepted.

G. Changes:

During the selection process, any changes in key consultant or subconsultant personnel proposed in the SOQ must be brought to the attention of AUTHORITY immediately.

IX. CONSULTANT SELECTION

The Primary objective of AUTHORITY is to select highly qualified firms to perform necessary professional services for AUTHORITY at a fair and reasonable cost. A copy of the AUTHORITY contracting and procurement policy is attached with this RFQ. In addition, AUTHORITY has established the following criteria for the selection process:

- A. The selection process shall be fair, open, and competitive.
- B. The selection of the consultant firms will be based on clearly stated objectives.
- C. Selection of private consultants/firms shall be based upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required services at a fair and reasonable price to AUTHORITY, rather than competitive bidding process.
- D. Upon review of the SOQ's, a shortlist of firms will be invited to prepare for an interview. The pending contract will be awarded to the responsible, responsive firm best conforming to the RFQ, and is in the opinion of AUTHORITY, most advantageous to AUTHORITY. AUTHORITY reserves the right to reject any and all SOQ's and to negotiate with any responsible, responsive firm. AUTHORITY is under no obligation to issue a contract for the subject services.

X. NEGOTIATIONS AND ENGAGEMENT

Following the selection of a consultant, the selected firm will submit a cost proposal and participate in contract negotiations with AUTHORITY staff. Please refer to the attached consultant selection schedule in Section XII. The final contract and Scope of Services will be negotiated. Consultants are encouraged to include in their SOQ any comments relating to the

Scope of Services and/or the Terms and Conditions of AUTHORITY's standard contract. In addition, Consultants are reminded that *any* comments regarding the Terms and Conditions of AUTHORITY's standard contract must be noted in the SOQ. AUTHORITY reserves the right to disqualify any firm that does not provide written discussions of any disagreements it has relative to AUTHORITY's Terms and Conditions. AUTHORITY does not anticipate making any substantive changes to its Terms and Conditions.

XI. CONFLICT OF INTEREST

The selected consultant will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time. Firms currently under contract on AUTHORITY projects are not specifically precluded from participating in this RFQ. In accordance with Caltrans directives, firms responsible for a project's design may not directly participate in construction inspection of that project. The determination of a conflict of interest, direct or incidental, shall be at the discretion of AUTHORITY.

XII. SCHEDULE FOR CONSULTANT SELECTION

Issue Request for Qualifications	March 5, 2007
Statement of Qualifications Due	April 5, 2007
Shortlist and Notify Consultants	April 24, 2007
Interview Shortlisted Consultants	May 9, 2007
Select Consultant	May 10, 2007
Contract Cost Proposal Due	May 18, 2007
Major Projects (anticipated)	June 14, 2007
AUTHORITY Board (anticipated)	July 11, 2007
Notice to Proceed (anticipated)	July 25, 2007
Consultant Debriefing (anticipated)	June, 2007

Dates are subject to change. Schedule updates will be posted on AUTHORITY's internet website: www.sanbag.ca.gov under "Latest RFP/RFQ Postings."

Contact List:

Appointment/Document Requests	Deanne Oberdank or Christine Coleman	(909) 884-8276
Questions/Comments	Dennis Saylor	(909) 884-8276

DRAFT
Contract C07-124 Attachment "A"

Scope of Services

By and between

**San Bernardino Associated Governments/
San Bernardino County Transportation Authority**

and

TBD

to

**Provide Engineering and Environmental Services
Including Preparation of
Project Study Report, Project Report and Environmental Document**

for

Interstate 15/Interstate 215 (I-15/I-215) Interchange Improvements Project

**Near Devore in
San Bernardino County, California**

Scope of Services

OVERVIEW

The San Bernardino Associated Governments (SANBAG), in cooperation with the California Department of Transportation (CALTRANS), will utilize the services of CONSULTANT to prepare a Project Study Report (PSR) and a Project Report/Environmental Document (PR/ED) for the I-15/I-215 Interchange Project in the unincorporated township of Devore in San Bernardino County.

Coordination of SANBAG, CALTRANS, and CONSULTANT will be accomplished through a SANBAG Contract Manager or his designee, a CONSULTANT Project Manager, and a CALTRANS Project Manager.

The SANBAG Contract Manager for this contract shall be:

Mr. Darren Kettle
Director of Freeway Construction

CONSULTANT shall be required to perform all professional and technical services necessary to prepare a Project Study Report (PSR) and a Project Report/Environmental Document (PR/ED). Additional on-call engineering and environmental support may also be required on an as-needed basis.

Project Location and Description

At this time, the specific project limits are unknown, but will be developed during the engineering/environmental efforts associated with the project. The project is in the unincorporated township of Devore in San Bernardino County.

The project proposes to improve the I-15/I-215 Interchange by reconfiguration and lane addition, with or without additional truck bypass lanes. This project is identified as the highest priority need in the short term in *I-15 Comprehensive Corridor Study* – a Major Investment Study (MIS) prepared for Southern California Association of Governments (SCAG), San Bernardino Associated Governments (SANBAG), and Caltrans District 8.

A complete reconstruction of the interchange is envisioned where the new design would allow the traffic on I-15 to pass through the interchange without changing lanes and without any lane drops. This reconstruction can proceed as a standalone project with its own independent utility and benefits regardless of the final Locally Preferred Strategy (LPS) selected for the I-15 corridor. Reconstruction with truck bypass lanes would further eliminate interaction of I-15 truck traffic from weaving automobile traffic merging and diverging to and from I-215.

APPLICABLE STANDARDS

The PSR and PR/ED shall be prepared in accordance with current CALTRANS and Federal Highway Administration (FHWA) regulations, policies, procedures, manuals, and standards. CONSULTANT's attention is directed to CALTRANS' *Project Development Procedures Manual, Appendices K and L – Preparation Guidelines for Project Report and Preparation Guidelines for Project Study Report* respectively.

General Guidelines and Services to be performed by Consultant

CONSULTANT will be responsible for the services outlined in this Scope of Services. CONSULTANT services shall conform to the standards, criteria, and requirements of this Scope of Services. In addition, CONSULTANT may be required to provide on-call engineering and environmental services as part of this project that shall also conform to the standards, criteria, and requirements of this Scope of Services. Services may include, but are not limited to:

- A. CONSULTANT shall prepare geometric drawings and advance planning studies, review and evaluate alternatives, define environmental and preliminary right of way requirements, perform preliminary drainage studies, and prepare preliminary schedules and cost estimates necessary to produce the PSR and PR/ED. The CONSULTANT may utilize the I-15 Comprehensive Corridor Study as the basis for the PSR and PR/ED.
- B. CONSULTANT shall carry out the directions as received **only** from SANBAG's Contract Manager or designee. In addition, CONSULTANT shall cooperate with CALTRANS, other agencies, and other consultants providing services for this project and for adjacent projects, as necessary.
- C. It is not the intent of the foregoing paragraph to relieve CONSULTANT of professional responsibility during the performance of this Scope of Services. In those instances where CONSULTANT believes a better solution to a problem is possible or consultant has a recommendation, CONSULTANT shall promptly notify SANBAG's Contract Manager of CONSULTANT'S opinions with supporting evidence thereof.
- D. CONSULTANT shall have sole responsibility for the accuracy and completeness of all deliverables and all supporting documents. CONSULTANT shall independently check all deliverables and supporting documents prior to any submittal. All deliverables may be reviewed by CALTRANS, SANBAG, and/or SANBAG's designee for conformity to the project.
- E. All deliverables and supporting materials furnished under this Scope of Services shall be of a quality acceptable to SANBAG and CALTRANS. The criteria for acceptance shall be a product of neat appearance, well organized, technically and grammatically correct and checked. The appearance, organization and content of all deliverables and supporting materials shall be to CALTRANS standards.

- F. All elements of the PSR and PR may be considered for Value Analysis studies. To this end the CONSULTANT is encouraged to submit to SANBAG an informal written statement or memorandum addressing those elements where it appears significant savings and other advantages may be realized. CONSULTANT shall support the Value Analysis through providing information as needed and providing support on an as needed basis.
- G. The CONSULTANT shall maintain a set of project files that are indexed in accordance with CALTRANS' Project Development Uniform File System.
- H. SANBAG reserves the right to approve all project scope of services changes. Any changes resulting from the addition, deletion, or revisions to the Scope of Services will not be made without prior written approval from SANBAG. The CONSULTANT will not be compensated for making any changes to the project Scope of Services other than those approved in writing by SANBAG.
- I. CONSULTANT shall not suspend performance of CONSULTANT services contract with SANBAG during the negotiations of any change orders except as they may be directed by SANBAG. CONSULTANT shall perform all changes in accordance with the terms and conditions of CONSULTANTS contract with SANBAG.
- J. At the completion of this Scope of Services all electronic files and original correspondence relating to the Project shall be turned over to SANBAG who will then forward said files to CALTRANS. This includes all deliverables, working data, field data, background information and all other related information.
- K. CONSULTANT shall employ quality control procedures that identify potential risks and uncertainties related to construction of the Project. Risks that may be encountered include, but are not limited to, impacts to adjacent properties, public safety, and environmental considerations. If at any time during the performance of this Scope of Services, CONSULTANT observes, encounters, or identifies any circumstance that could pose potential risk, CONSULTANT shall notify SANBAG.
- L. CONSULTANT shall coordinate with CALTRANS and all other agencies involved or potentially impacted by the Project. CONSULTANT shall inform SANBAG prior to all contacts, meetings, and correspondence with CALTRANS or any other agencies.
- M. All studies, reports and deliverables will employ US Customary units where applicable or necessary.

SERVICES PERFORMED BY CONSULTANT

Engineering Services Scope

The CONSULTANT shall provide engineering services both technical and administrative that are consistent with producing a Project Study Report (PSR) and a Project Report/Environmental Document (PR/ED). CONSULTANT will be responsible for identifying a purpose and need for the I-15/I-215 Interchange reconfiguration and lane additions, developing alternatives consistent with findings from previous studies and input from involved agencies, and recommending a preferred alternative that will be used to clear the project environmentally. Additionally, CONSULTANT will be required to provide on-call engineering and environmental services as needed.

It is not the intent of the following paragraphs to relieve CONSULTANT of professional responsibilities during the performance of this Scope of Services. In all instances where CONSULTANT believes this Scope of Services has not identified requirements that may be pertinent to producing acceptable alternatives to be cleared environmentally or producing a PSR and a PR/ED, CONSULTANT shall promptly notify SANBAG's Contract Manager of CONSULTANT'S opinions with evidence thereof.

CONSULTANT shall provide a project approach or management plan that will define the basic schedule and work tasks.

Project Study Report, Project Report, and General Activities

CONSULTANT shall follow a work process that ensures that the objectives of the local agencies involved and that of state and federal agencies are accommodated. Additionally, any and all legal and procedural requirements for state and federal agencies must be met. This process may include but not be limited to the following general activities and studies:

- Conducting traffic studies of existing conditions and forecasting for the project design year.
- Developing aerial photographs to be used through the course of the project.
- Conducting on-site reconnaissance of the existing project site.
- Surveying the project area as needed.
- Identifying any projects in the vicinity that may be affected and ensuring alternatives are consistent with these projects.
- Refining alternatives based on opportunities and constraints.
- Developing and obtaining approval of the Project Study Report (PSR)
- Developing and obtaining approval for Geometric Approval Drawings for proposed alternative.
- Preparing necessary design exception reports and/or Fact Sheets
- Developing evaluation methodology with input from affected stakeholders and agencies, and evaluating alternatives using these criteria.
- Participating in various public meetings, as required.
- Supporting any required or desired coordination meetings and activities.

- Developing and obtaining approval of a Modified Access Report.

The Project Report may include but not be limited to the following chapter/sections and technical studies/reports.

- A summary section which may include information on project location and background, the current environmental setting, and agency coordination.
- A statement regarding the project purpose and need. This chapter/section may include information on current operational deficiencies, current and future traffic conditions and project objectives.
- Conceptual geometric drawings for proposed alternatives.
- A section describing the proposed alternatives and the ultimate preferred alternative, and how they were developed. This section may also include, information on proposed engineering features including nonstandard mandatory and advisory design features.
- A section analyzing project impacts, including but not limited to, right of way, utility impacts, railroad involvement, and traffic.
- A section on the system planning of the project. This section may include discussion on how the project incorporates planning from affected agencies.
- A section on any hazardous material/waste issues.
- A section describing possible traffic management issues that may need further consideration.
- A section describing the environmental constraints considered during alternatives development.
- A section describing permits that may be required for construction.
- A section discussing the current funding sources and estimated schedule.
- A section of recommendations.

Environmental Services Scope

The CONSULTANT shall provide both technical and administrative environmental services consistent with obtaining the necessary environmental approvals. Additionally CONSULTANT will be required to provide on-call environmental services as needed.

It is not the intent of the following paragraphs to relieve CONSULTANT of professional responsibilities during the performance of this Scope of Services. In all instances where CONSULTANT believes this Scope of Services has not identified requirements that may be pertinent to clearing the project environmentally, CONSULTANT shall promptly notify SANBAG's Contract Manager of CONSULTANT'S opinions with evidence thereof.

CONSULTANT shall provide a project approach or management plan that defines the basic schedule and work tasks.

Environmental Document and General Activities

CONSULTANT shall follow a work process that ensures the objectives of all stakeholders including local, state, and federal agencies are met. Additionally, any and all legal and procedural requirements for state and federal agencies must be met. This process may include but not be limited to the following general activities.

- Preparing an Environmental Assessment (EA)/ Initial Study (IS), if needed.
- Publishing applicable notices and/or sending notices to various agencies and other interested parties.
- Developing a detailed scope definition of the environmental document.
- Preparing and circulating the Draft environmental document.
- Publishing various notices and filings of the Draft environmental document.
- Participating in various public meetings, as required.
- Responding to comments on the Draft environmental document.
- Finalizing the environmental document.
- Publishing of various notices and filings of the environmental document.
- Providing support through final agency decision and project certification.
- Providing support for any required or desired coordination meetings and activities.

The environmental document will include various chapters, sections, studies and appendices. Information included for the document may be gathered from many sources as well as studies and analyses that CONSULTANT may perform. The following is a listing of the content that may be included in the document. CONSULTANT should be aware, however, that the environmental document may require additional information to what is presented in the following.

- Summary section which may include information on project location and background, the current environmental setting, agency coordination, project alternatives and discarded alternatives, project purpose and a summary of impacts.
- Statement regarding the project purpose and need. This chapter/section may include information on current operational deficiencies, current and future traffic conditions and project objectives.
- A section on the preferred alternative and how it was selected.
- A chapter on the affected environment which may include information on aesthetics, geology, soils analysis, hydrology, flood plains, wetlands, cultural resources, air quality, noise, land use, parks, hazardous waste, traffic circulation and socioeconomic aspects. Additionally, the environmental consequences (effects) and mitigation measures of the foregoing should be addressed. CONSULTANT may also be required to address unavoidable adverse environmental impacts, the relationship and cumulative impacts versus long term productivity of the environment, growth inducement and cumulative impacts thereof.
- A section dealing with CEQA *findings of significant effects* may be required. CONSULTANT must also be aware of any and all other CEQA specific requirements.

- The environmental document may also include information on agency/organization and public consultation, persons that were involved with the environmental document preparation, technical appendices and otherwise, a list of required permits, a bibliography and index.
- Existing Land Use Inventory
- Possible existing biological surveys/inventories
- Inventory of section 4 (f) properties
- Existing housing surveys
- Public services surveys

Technical Studies

CONSULTANT may be required to perform technical studies and/or review data including but not limited to the following.

- Air quality
- Hazardous waste including asbestos and ADL
- Noise
- Biological resources
- Cultural resources
- Water quality
- Visual impact study including preparation of exhibits and participation in public meetings
- Potential effects of the project on endangered species may also need to be examined
- CONSULTANT may be required to prepare an environmental checklist, which may include analysis to impacts to physical, biological and social/economic effects. CONSULTANT shall provide written narrative to support the checklist.
- As-built plans of existing infrastructure
- Geologic and seismic data for the project area
- Hydrology and drainage information

Submittal of Studies, Reports and other deliverables

1. All deliverables shall be prepared in accordance with CALTRANS and FHWA requirements. CONSULTANT shall submit all deliverables to SANBAG and CALTRANS for review.
2. CONSULTANT shall respond to all comments received from SANBAG, FHWA and CALTRANS and resubmit deliverables as directed.
3. CONSULTANT shall support any and all studies, analyses and requirements needed to successfully complete the environmental requirements of the project.

FURNISHED MATERIALS

SANBAG will provide CONSULTANT with a copy of the *I-15 Comprehensive Corridor Study*, Final Report dated December 20, 2005.

ADMINISTRATION

SANBAG Project Management and Administration

- A. As part of their management activities SANBAG shall:
1. Conduct ongoing reviews of CONSULTANT's progress in performing the work and furnish technical comments in a timely manner.
 2. Review certain types of correspondence such as, work requests to subconsultants, initial contact letters, sensitive correspondence, and other letters as necessary.
 3. Coordinate the distribution of public information.
 4. Review CONSULTANT's Quality Control Plan and CONSULTANT's conformance to its Quality Control Plan.
 5. Provide a focal-point contact for all questions, requests, and submittals.
 6. Review the Project Control documents (including subconsultants) submitted by CONSULTANT to ensure their understanding of the level of information required, reporting procedures, report cycle, and the intended use of each.
 7. Review CONSULTANT's detailed Critical Path Method (CPM) Logic Network Schedule; note any additions, deletions, or other changes; and return it to CONSULTANT with comments for revision.
 8. Receive and review monthly progress reports from CONSULTANT.
 9. Review with CONSULTANT, requests for change orders and/or extensions of time when such requests are determined to be necessary.
 10. Have final review and approval over all contractual payments and changes.

CONSULTANT Project Management and Administration

- A. CONSULTANT management activities include, but are not limited to:

1. Establishing, furnishing, and maintaining suitable office facilities to serve as the Contract office for the duration of the Contract in the location specified in CONSULTANT's proposal.
 2. Maintaining an adequate staff of qualified support personnel to perform the work necessary to complete the Project.
 3. Establishing internal accounting methods and procedures acceptable to SANBAG for documenting and monitoring Contract costs.
 4. Providing cost-to-date, schedule, progress, staffing, and related data to SANBAG as a part of the regular monthly progress and payment process.
- B. CONSULTANT's work shall be performed and/or directed by those key personnel identified in their proposal. Any changes in the indicated key personnel shall be subject to prior review and approval by SANBAG in writing. Any change in CONSULTANT's officer-in-charge of the Services, as described in the General Terms and Conditions of this Contract, shall be subject to prior review and approval by SANBAG.
- C. Due to the nature and scope of the required services, it may be desirable for the CONSULTANT to subcontract portions of the Services. Adding Subconsultants to the original proposal team must be approved in writing by SANBAG prior to initiation of any Services. The volume of Services performed by the subcontractors shall not exceed 49 percent of the total Contract value. Due to the nature and proportional amounts of engineering and environmental work, there could be instances whereby a subconsultant's portion of the project is greater than 49%. In the event this occurs, CONSULTANT shall bring it to SANBAG's attention immediately. SANBAG's Contract Manager will have the authority to grant exception. Throughout this effort CONSULTANT shall be the single source of contact and management of all subcontractors. Subcontractor management will include the coordination time required for all aspects of the project including design, processing, and accounting.
- D. CONSULTANT shall provide to SANBAG copies of all written correspondence between CONSULTANT and any party pertaining specifically to the Project. Copies shall be furnished within five calendar days of receipt of said correspondence from any party, or five calendar days prior to mailing of correspondence to any party for review. CONSULTANT is also responsible for recording and distributing the minutes of all meetings pertaining to the Project at which CONSULTANT is present.
- E. CONSULTANT shall give written notice to SANBAG within seven (7) working days after CONSULTANT knows or should know of any cause or condition which might, under reasonable foreseeable circumstances, result in delay for which CONSULTANT may request an extension of time to complete Services.

Project Controls

- A. As part of the Project Controls effort CONSULTANT shall, at the introductory meeting, present SANBAG with samples of their proposed project control documents for SANBAG's review. These documents shall include, but are not limited to:
1. Bar Chart(s) Schedules
 2. Progress Curve(s)
 3. Sample Amendment Format
 4. Sample Narrative Format(s)
 5. Sample Estimate Format(s)
 6. Earned Value Cost Report
- B. CONSULTANT's Project Control System shall be able to:
1. Determine the critical path for the Services in Contract.
 2. Forecast dates for intermediate milestones and project completion.
 3. Provide a clear format to incorporate progress data on each activity.
 4. Provide reports showing actual progress compared to scheduled (planned) progress, and actual cost of services performed compared to (1) budgeted costs for services performed and (2) budgeted cost for services scheduled.
 5. Forecast possible delays and/or resource shortages.
 6. Provide a basis for preplanning, including resource usage to recover from delays, allow schedule improvement, or accommodate other changes in the work.
 7. Provide projected manpower requirements and dollar costs based on current performance.
 8. Provide current project cost estimate information.
 9. Provide all the estimates necessary to assist in confirming the construction budget.
- C. Within 15 working days (or as requested by SANBAG) of assignment of services the CONSULTANT shall submit to SANBAG for their review, a Bar Chart Schedule showing the Critical Path and identifying all project development activities and milestones. SANBAG will review these documents and return them to CONSULTANT with notes and comments as soon as possible in order to validate the

- planning and cost control procedures within the first calendar month of performance period.
- D. As the Contract work progresses, CONSULTANT may discover the need to change the schedule to improve productivity or accommodate new or changed conditions. Any proposed change to the schedule shall be presented to SANBAG for review and validation prior to incorporation in the schedule.
 - E. CONSULTANT shall report in a timely manner, through correspondence or progress reports, whenever it appears that approved schedules will not be met whether or not the reasons are within the CONSULTANT's control. In the event the Scope and Schedule of the Services is modified, and the modified Schedule is approved by SANBAG, CONSULTANT shall submit a revised Milestone Schedule. CONSULTANT shall perform the Services in accordance with the latest approved revision Milestone Schedule.

Monthly Progress Reports

- A. On a monthly basis, CONSULTANT shall prepare and submit to SANBAG a monthly status report that indicates the work progress achieved during the period. The report shall summarize the actual work progress compared with estimated progress and will identify problem areas, provide evaluations, recommendations and an outline on the process which CONSULTANT, and SANBAG will follow to rectify the problem(s). The progress report shall be submitted with the monthly invoice. As a minimum, the monthly report should address the following specific areas:
 - 1. Time related project status via a bar chart schedule
 - 2. Physical progress
 - 3. Amendment summary history
 - 4. Narrative status report
 - 5. Earned Value Report
 - 6. Graphical comparisons for actual progress vs. earned and planned progress for: physical (%complete), performance (hours complete) and cash flow.
- B. CONSULTANT shall have the ability to monitor and update its Detailed Project Control Schedule during the execution of the work and shall submit at each Progress Meeting, an updated four-week, horizon schedule to be used in monitoring the progress of the work.
- C. A Progress Meeting between CONSULTANT, CALTRANS, and SANBAG shall be held, at minimum, on monthly basis to discuss the design progress, potential problems, plans for the next period, and other progress issues. SANBAG and CALTRANS will establish with CONSULTANT the dates and times of these

- meetings. Three calendar days prior to each progress meeting, CONSULTANT shall provide SANBAG with a typewritten agenda for the meeting. CONSULTANT shall prepare typewritten meeting minutes and submit them to SANBAG and CALTRANS within seven calendar days after the meeting. The minutes shall indicate issues discussed and the resolution or action required to resolve any issues.
- D. Project Coordination Meetings may be called by SANBAG, CALTRANS or the CONSULTANT at any time that any party requires discussion of Project issues. CONSULTANT shall prepare minutes of the meeting and submit them to SANBAG and CALTRANS.

Quality Assurance

- A. CONSULTANT has total responsibility for the accuracy and completeness of all deliverables and any other work assigned to CONSULTANT. All services and deliverables furnished under this Scope of Services shall meet that responsibility through the implementation of a Quality Assurance Plan. CONSULTANT's Quality Assurance Plan shall be in effect throughout the entire Contract and, at minimum, shall establish the process necessary to ensure the following:
1. All deliverables and services shall be provided in a professional manner and meets the standards set forth herein.
 2. CONSULTANT shall maintain a set of project files that are indexed in accordance with CALTRANS' Project Development Uniform File System.
- B. CONSULTANT shall submit to SANBAG within 30 calendar days after receipt of Notice to Proceed two copies of their Quality Assurance Plan. SANBAG will review the plan established by CONSULTANT to determine if quality assurance procedures are adequate and appropriate to the complexity of the project requirements. Review comments will be returned to CONSULTANT within 14 calendar days. If appropriate, the revised plan, which incorporates the comments of SANBAG, should be resubmitted within seven calendar days of receipt of comments.
- C. Evidence that the Quality Assurance Plan is functioning will be periodically confirmed by SANBAG. Deliverables that do not conform to the approved plan will be returned to CONSULTANT without review by SANBAG.

Reproduction Services

CONSULTANT shall provide the reproduction services required for the projects inclusive of the number of individual sets to be delivered for the submittal tasks outlined in this Scope of Services.

Submittal and Reviews

- A. Reports prepared by CONSULTANT shall be submitted in draft form, and opportunity provided for SANBAG and CALTRANS to review and direct revisions prior to formal submittal. If so requested by SANBAG and CALTRANS, CONSULTANT shall make other submittals in draft form to provide opportunity for review and revisions.
- B. If CONSULTANT fails to submit the required deliverable items set forth in this Scope of Services, SANBAG shall have the right to withhold payment and/or terminate CONSULTANTS contract in accordance with the provisions entitled "Termination" included in this Contract.

Draft

CONTRACT NO: C07124

EFFECTIVE DATE: TBD

by and between

**San Bernardino Associated Governments/
San Bernardino County Transportation Authority**

And

TBD

To

Provide Engineering and Environmental Services

For

Interstate I-15/I-215 Interchange Improvements Project

**Near Devore in
the County of San Bernardino**

TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE</u>
Article 1 Description of Services	3
Article 2 Performance Schedule and Force Majeure	3
Article 3 Contract Price and Cost Principles	4
Article 4 Availability of Funds	5
Article 5 Taxes, Duties, Fees	5
Article 6 Invoicing and Payments	5
Article 7 Documentation and Right of Audit.....	6
Article 8 Responsibility of the Engineer.....	7
Article 9 Reporting Requirements/Deliverables	7
Article 10 Permits and Licenses.....	7
Article 11 Technical Direction.....	8
Article 12 Changes.....	9
Article 13 Federal and State Mandatory Provisions	10
Article 14 Conflict of Interest	11
Article 15 Key Personnel	12
Article 16 Representations	12
Article 17 Proprietary Rights/Confidentiality.....	12
Article 18 Terminations	13
Article 19 Stop Work Orders	15
Article 20 Claims	15
Article 21 Insurance	15
Article 22 Indemnity	16
Article 23 Damages due to Errors and Omissions	17
Article 24 Ownership of Drawings and Data.....	17
Article 25 Subcontracts	17
Article 26 Inspection and Access.....	18
Article 27 Independent Contractor.....	18
Article 28 Precedence	18
Article 29 Communications and Notices	19
Article 30 Disputes.....	19
Article 31 Gratuities.....	20
Article 32 Review and Acceptance	20
Article 33 Safety	21
Article 34 Assignment	21
Article 35 Amendments	21
Article 36 Governing Law and Venue	21
Article 37 Suspension of Services	21
Article 38 Contingent Fee	22
Article 39 Location of Performance.....	22
Article 40 Entire Document	23
Article 41 Attorney's Fees	23

Draft
CONTRACT

FOR

ENGINEERING AND ENVIRONMENTAL SERVICES

This Contract, entered into this [DATE] day of [MONTH] 2007, by the firm of [CONSULTANT] (hereinafter called CONSULTANT) whose address is:

[CONSULTANT ADDRESS]

and San Bernardino Associated Governments/San Bernardino County Transportation Authority (hereinafter called AUTHORITY) whose address is:

**1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715**

Whereas, AUTHORITY desires CONSULTANT to perform certain technical Services as hereinafter described and CONSULTANT desires to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

Article 1 Description of Services

CONSULTANT agrees to perform Services set forth in Attachment "A", Scope of Services, which is incorporated herein by reference, in accordance with high professional environmental services which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined therein. The word "Services," as used herein, includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT hereunder; and the Services performed hereunder shall be completed to the satisfaction of AUTHORITY, with their satisfaction being based on prevailing professional engineering and environmental services standards.

Article 2 Performance Schedule

2.1 The Period of Performance by CONSULTANT under this Contract shall commence on [CONTRACT DATE] and shall continue in effect for thirth-six (36) months, until work is completed, or otherwise terminated,

cancelled or extended as hereinafter provided.

Article 3 Contract Price and Cost Principles

- 3.1 Full compensation to CONSULTANT for full and complete performance of all Services (as described within the executed task orders), compliance with all the terms and conditions of this Contract, payment by CONSULTANT of all obligations incurred in, or application to, CONSULTANT's performance of Services, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by AUTHORITY), shall not exceed the amounts set forth in 3.2 below.
- 3.2 The total cost for Services to the project shall not exceed **[CONTRACT AMOUNT]**. This amount does not include a contingency. Services to be provided under terms of this Contract are to be provided on a task order basis and compensated for as set forth in Attachment "B" which is incorporated herein by reference. Utilization of the contingency is not permitted unless directed in writing by AUTHORITY Project Manager. CONSULTANT's fee for services is included in the total estimated contract cost and shall be a fixed percentage fee, as agreed upon, and noted in Attachment "B". Each executed task order will include the fee amount as well as the actual scope of services for that task orders.
- 3.3 CONSULTANT's overhead rates will be fixed, as set forth in Attachment "B" for the duration of this Contract. The fixed overhead rate will not be subject to adjustment. Overtime, any percentage increase over the direct billing rate, is not permitted without prior authorization from AUTHORITY.
- 3.4 Not used.
- 3.5 The cost principles set forth in Part 31, Contract Cost Principles and Procedures, in Title 48, Federal Acquisition Regulations System of the Code of Federal Regulations (CFR) as constituted on the effective date of this Contract shall be utilized to determine allowableness of costs under this Contract and may be modified from time to time by amendment of the Contract.
 - 3.5.1 The CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
 - 3.5.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Part 31, Contract Cost Principles and Procedures, or 49

CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments shall be repaid by CONSULTANT to AUTHORITY.

3.5.3 Any subcontract, entered into as a result of this Contract shall contain all of the provisions of this Section 3.5.

3.6 Any Services provided by the CONSULTANT not specifically covered by a task order (Attachment "A") shall not be compensated without prior written authorization from AUTHORITY. It shall be CONSULTANT's responsibility to recognize and notify AUTHORITY when services not covered by a task order have been requested or are required. All changes and/or modifications to the Scope of Services shall be made in accordance with Article 12, Changes.

Article 4 Availability of Funds

This Contract is awarded on the contingency of availability of funds. The obligation of AUTHORITY is conditioned upon the availability of funds that are allocated and available for the payment of such an obligation. If funds are not allocated and available for the continuance of Services performed by CONSULTANT, Services directly or indirectly involved may be suspended or terminated by AUTHORITY at the end of the period for which funds are available. When AUTHORITY becomes aware that any portion of Services that will or may be affected by a shortage of funds, it will immediately so notify CONSULTANT. Nothing herein shall relieve AUTHORITY from its obligation to compensate CONSULTANT for Services actually performed pursuant to this Contract prior to such notification. No penalty shall accrue to AUTHORITY in the event this provision is exercised.

Article 5 Taxes, Duties, Fees

CONSULTANT shall pay when due, and the compensations set forth in Article 3, Contract Price and Cost Principles, shall be inclusive of all; a) local, municipal, state, and federal sales and use taxes, b) excise taxes, c) taxes on personal property owned by CONSULTANT, and d) all other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

Article 6 Invoicing and Payments

6.1 The compensation of CONSULTANT as provided herein shall be payable in 4 week billing period payments, forty-five (45) calendar days after receipt by AUTHORITY of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Services.

- 6.2 CONSULTANT shall prepare all invoices in a form satisfactory to and approved by AUTHORITY and it shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a four to five week billing period and will be marked with AUTHORITY's project name, contract number, and task order number. CONSULTANT and AUTHORITY's Project Manager shall mutually agree on a cutoff date for invoices. The cutoff date for CONSULTANT's invoices shall be consistent from each period. Invoices shall be submitted within fifteen (15) calendar days after the cutoff date for the period covered by the invoice. Invoices shall include request for payment for Services (including additional Services authorized by AUTHORITY) completed by CONSULTANT during each billing period. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT's sole expense.
- 6.3 CONSULTANT shall furnish evidence, satisfactory to AUTHORITY, that all labor and materials furnished and equipment used during the period covered by the invoice have been incurred. AUTHORITY shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such evidence. Upon furnishing such evidence, satisfactory to AUTHORITY, AUTHORITY shall pay CONSULTANT the full amount of the invoice less disputed amounts.
- 6.4 CONSULTANT shall include a statement and release with each invoice, satisfactory to AUTHORITY, that CONSULTANT has fully performed the Services invoiced pursuant to this Contract for the period covered, and that all claims of CONSULTANT and its subcontractors for Services during the period will be satisfied upon the making of such payment. AUTHORITY shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.
- 6.5 CONSULTANT shall forfeit the fixed fee portion of the progress payment for any billing period that CONSULTANT fails to submit an invoice within sixty (60) calendar days after the cutoff date for the billing period.
- 6.6 CONSULTANT shall forfeit all costs incurred for a progress payment for any billing period that CONSULTANT fails to submit an invoice within one-hundred twenty (120) calendar days after the cutoff date for the billing period.

Article 7 Documentation and Right of Audit

CONSULTANT shall keep and maintain all books, papers, records, accounting records including but not limited to all direct and indirect costs allocated to

Services, files, accounts, reports, cost proposals with backup data, and all other material relating to Services. CONSULTANT shall upon request, make all such materials available to AUTHORITY or its designee at any reasonable time during the term of the Contract and for three (3) years from the date of final payment to CONSULTANT, for auditing, inspection and copying. CONSULTANT shall insert in each of its subcontracts the above requirement.

Article 8 Responsibility of the Engineer

- 8.1 The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all calculations, drawings, notes and other Services furnished by the CONSULTANT under terms of this Contract.
- 8.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, the CONSULTANT shall, as an integral part of its Services, employ quality control procedures that identify potential risks and uncertainties related to construction of the project and the Services performed by CONSULTANT within the areas of CONSULTANT Services and expertise. Risks that may be encountered include, but are not limited to, soil conditions, constructability, factors of safety, impact on adjacent properties, public safety, and environmental considerations. At any time during performance of the contracted Scope of Services, should the CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk and uncertainties, CONSULTANT shall immediately document such matters and notify AUTHORITY of said circumstances and related concerns. CONSULTANT shall also similarly notify AUTHORITY in regard to the possibility of any natural catastrophe, potential failure, or any situation that exceeds design assumptions and could precipitate a failure. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable AUTHORITY to understand and evaluate the magnitude and effect of the risk and uncertainties involved.

Article 9 Reporting Requirements/Deliverables

All Reports and deliverables shall be submitted in accordance with Attachment "A", Scope of Services and as agreed to in each executed task order.

Article 10 Permits and Licenses

CONSULTANT shall (without additional compensation) keep current all governmental permits, certificates and licenses (including professional licenses) necessary for CONSULTANT to perform Services.

Article 11 Technical Direction

- 11.1 Performance of Services under this Contract shall be subject to the technical direction of the AUTHORITY Contract Manager, or his designee, as identified in Attachment "A", Scope of Services, attached to this Contract. The AUTHORITY Contract Manager will identify his designee, in writing to CONSULTANT, with the notice to proceed and subsequently with any changes during the Contract period. The term "Technical Direction" is defined to include, without limitation:
 - 11.1.1 Directions to the CONSULTANT which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Scope of Services.
 - 11.1.2 Provision of written information to the CONSULTANT which assists in the interpretation of drawings, reports, or technical portions of Service description.
 - 11.1.3 Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by the CONSULTANT to AUTHORITY or Caltrans under the Contract.
- 11.2 Technical direction must be within the Scope of Services in the Contract. The AUTHORITY Contract Manager or designee does not have the authority to, and may not, issue any technical direction which:
 - 11.2.1 Constitutes an assignment of additional Services outside the Scope of Services;
 - 11.2.2 Constitutes a change as defined in the Contract clause entitled "Changes";
 - 11.2.3 In any manner causes an increase or decrease in the Contract's estimated cost or price or the time required for Contract performance;
 - 11.2.4 Changes any of the expressed terms, conditions or specifications of the Contract; or
 - 11.2.5 Interferes with the CONSULTANT's right to perform the terms and conditions of the Contract.
 - 11.2.6 A failure of the CONSULTANT and AUTHORITY Contract Manager to agree that the technical direction is within the scope of the Contract, or a failure to agree upon the Contract

action to be taken with respect thereto shall be subject to the provisions of Article 30, Disputes.

- 11.3 All technical directions shall be issued in writing by the AUTHORITY Contract Manager or his designee.
- 11.4 The CONSULTANT shall proceed promptly with the performance of technical directions duly issued by the AUTHORITY Contract Manager or his designee, in the manner prescribed by this article and within his authority under the provisions of this clause. If, in the opinion of the CONSULTANT, any instruction or direction by the AUTHORITY Contract Manager or his designee, falls within one of the categories defined in 11.2.1 through 11.2.5 above, the CONSULTANT shall not proceed but shall notify the Contract Manager in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contract Manager to modify the Contract accordingly. Upon receiving the notification from the CONSULTANT, the Contract Manager shall:
 - 11.4.1 Advise the CONSULTANT in writing within thirty (30) days after receipt of the CONSULTANT's letter that the technical direction is or is not within the scope of Article 12, Changes;
 - 11.4.2 Advise the CONSULTANT within a reasonable time that AUTHORITY will or will not issue a written change order.

Article 12 Changes

- 12.1 The Services shall be subject to changes by additions, deletions, or revisions thereto by AUTHORITY. CONSULTANT will be advised of any such changes by written notification from AUTHORITY describing the change.
- 12.2 Promptly after such written notification of change is given to CONSULTANT by AUTHORITY, CONSULTANT and AUTHORITY will attempt to negotiate a mutually agreeable change in compensation or time of performance and amend the Contract accordingly. If CONSULTANT and AUTHORITY are unable to agree on the compensation change, the CONSULTANT may make a claim per Article 20, Claims. CONSULTANT shall have no obligation to perform the changes, and shall not be entitled to compensation for Services performed on such changes, prior to the execution of the change order relating to the changes required by AUTHORITY.
- 12.3 CONSULTANT shall not suspend performance of this Contract during the negotiation of any change order, except as may be directed by AUTHORITY. CONSULTANT shall perform all changes in accordance with all the terms of this Contract.

Article 13 Federal and State Mandatory Provisions

13.1 Equal Employment Opportunity/Nondiscrimination

- 13.1.1 In connection with the execution of this Contract, the CONSULTANT shall not discriminate directly or indirectly against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The CONSULTANT shall take action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selections of training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of the Equal Opportunity clause.
- 13.1.2 The CONSULTANT shall, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applications shall receive consideration for employment without regard to race, color, religion, sex, age, or national origin.
- 13.1.3 The CONSULTANT shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding, a notice advising the labor union or workers representative of the CONSULTANT's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 13.1.4 The CONSULTANT shall comply with all provisions of Executive Order No 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60), and shall permit access to its books, records, and accounts by AUTHORITY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 13.1.5 In the event of the CONSULTANT's noncompliance with the Equal Opportunity clause of this Contract or any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and the CONSULTANT may be declared ineligible for further

government contracts in accordance with procedures authorized in Executive Order No. 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60).

- 13.1.6 The CONSULTANT shall include the provisions of paragraphs (13.1.1) through (13.1.6) of this Article in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60), so that such provisions will be binding upon each subcontract or vendor. The CONSULTANT shall take such action with respect to any subcontract or purchase order as AUTHORITY may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by AUTHORITY, the CONSULTANT may request AUTHORITY to enter into such litigation to protect the interests of AUTHORITY.

13.2 Handicapped Workers

- 13.2.1 The CONSULTANT will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONSULTANT agrees to take action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Article 14 Conflict of Interest

- 14.1 The CONSULTANT agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required to be performed under this Contract. The CONSULTANT further agrees that in the performance of this Contract, no person having any such interest shall be employed.

- 14.2 No portion of the funds received by the CONSULTANT under this Contract shall be used for political activity or to further the election or defeat of any candidate for public office.

Article 15 Key Personnel

- 15.1 The personnel specified in 15.2 below are considered to be essential to Services being performed hereunder. Prior to diverting any of the specified individuals to other projects, or reallocation of tasks and hours of Services that are the responsibility of key personnel to other personnel, the CONSULTANT shall notify AUTHORITY reasonably in advance and shall submit justifications (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the project. Diversion or reallocation of key personnel shall be subject to written approval by AUTHORITY. AUTHORITY also reserves the right to approve proposed substitutions for key personnel.

- 15.2 Key Personnel are:

[ENTER KEY PERSONNEL HERE]

Article 16 Representations

CONSULTANT agrees with AUTHORITY that Services supplied by CONSULTANT in performance of this Contract shall be supplied by personnel who are careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that it is supplying professional Services, findings, and/or recommendations in the performance of this Contract and agrees with AUTHORITY that the same shall conform to high professional and environmental principles and standards that are generally accepted in the State of California.

Article 17 Proprietary Rights/Confidentiality

- 17.1 If, as a part of the Contract, CONSULTANT is required to produce materials, documents, data or information ("Products"), then CONSULTANT, if requested by AUTHORITY, shall deliver to AUTHORITY the original of all such Products which shall become the property of AUTHORITY.
- 17.2 All materials, documents, data or information obtained from AUTHORITY's data files or any AUTHORITY medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of AUTHORITY. Such data or information may not be used or copied for direct or indirect use outside of this Interstate 10 (I-10) High Occupancy Vehicle (HOV), Haven to Ford Project ("Project") by CONSULTANT without the express written consent of AUTHORITY.

- 17.3 Except as reasonably necessary for the performance of Services, CONSULTANT and its employees and agents shall hold in confidence the materials and information referred to in this Article 17, Proprietary Rights/Confidentiality, which are produced by CONSULTANT for AUTHORITY in the performance and completion of CONSULTANT's Services under the Contract, until released in writing by AUTHORITY, except to the extent such materials and information become a part of public domain information through no fault of CONSULTANT, or its employees or agents.
- 17.4 CONSULTANT shall not use AUTHORITY's name or photographs of the Project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of AUTHORITY.
- 17.5 All press releases relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by AUTHORITY unless otherwise agreed to by CONSULTANT and AUTHORITY.
- 17.6 CONSULTANT agrees that it, and its employees, agents, and subcontractors will hold confidential and not divulge to third parties without the prior written consent of AUTHORITY, any information obtained by CONSULTANT from or through AUTHORITY in connection with CONSULTANT's performance of this Contract, unless (a) the information was known to CONSULTANT prior to obtaining same from AUTHORITY pursuant to a prior Contract; or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subcontractors, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from AUTHORITY and who had, to CONSULTANT's knowledge and belief, the right to disclose the same.

Article 18 Terminations

- 18.1 Termination for Convenience. AUTHORITY shall have the right at any time, with or without cause, to terminate further performance of Services by written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall discontinue performance of Services and shall preserve work in progress and completed work ("Work"), pending AUTHORITY'S instruction, and shall turn over such Work in accordance with AUTHORITY's instructions.
- 18.1.1 CONSULTANT shall deliver to AUTHORITY, in accordance with AUTHORITY'S instructions, all Products prepared by

CONSULTANT or its subcontracts or furnished to CONSULTANT by AUTHORITY. Upon such delivery, CONSULTANT may then invoice AUTHORITY for payment in accordance with the terms hereof.

18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from AUTHORITY as complete and full settlement for such termination a pro rata share of the Contract cost and a pro rata share of any fixed fee, for such Services satisfactorily executed to the date of termination.

18.1.3 CONSULTANT shall be entitled to receive the actual cost incurred by CONSULTANT to return CONSULTANT's field tools and equipment, if any, to it or its suppliers' premises, or to turn over Work and Products in accordance with AUTHORITY's instructions plus the actual cost necessarily incurred in effecting the termination.

18.2 Termination for Cause. In the event CONSULTANT shall file a petition in bankruptcy, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy shall be filed against CONSULTANT or a receiver shall be appointed on account of its solvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice thereof, AUTHORITY may, without prejudice to any other rights or remedies AUTHORITY may have, (a) hold in abeyance further payments to CONSULTANT; (b) stop any Services of CONSULTANT or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by AUTHORITY, AUTHORITY may take possession of the Products and finish Services by whatever method AUTHORITY may deem expedient. A waiver by AUTHORITY of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, nor be deemed to waive, amend, or modify any term of this Contract.

18.2.1 In the event of termination CONSULTANT shall deliver to AUTHORITY all finished and unfinished Products prepared by CONSULTANT or its subcontractors or furnished to CONSULTANT by AUTHORITY.

18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to

AUTHORITY, satisfactory in form and content to AUTHORITY and verified by AUTHORITY. In no event shall CONSULTANT be entitled to any prospective profits or any damages because of such termination.

Article 19 Stop Work Orders

Upon failure of CONSULTANT or its subcontractors to comply with any of the requirements of this Contract, AUTHORITY shall have the authority to stop any Services of CONSULTANT or its subcontractors affected by such failure until such failure is remedied or to terminate this Contract in accordance with Article 18, Termination. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for increased costs or damages by CONSULTANT.

Article 20 Claims

CONSULTANT shall give AUTHORITY written notice within seven (7) days after the happening of any event which CONSULTANT believes may give rise to a claim by CONSULTANT for an increase in the Contract amount or in the scheduled time for performance. Within fourteen (14) days after the happening of such events, CONSULTANT shall supply AUTHORITY with a statement supporting CONSULTANT's claim, which statement shall include CONSULTANT's detailed estimate of the change in Contract amount and scheduled time occasioned thereby. AUTHORITY shall not be liable for, and CONSULTANT hereby waives, any claim or potential claim of CONSULTANT of which CONSULTANT knew or should have known and which was not reported by CONSULTANT in accordance with the provisions of this Article. CONSULTANT agrees to continue performance of Services during the time any claim of CONSULTANT hereunder is pending. AUTHORITY shall not be bound to any adjustments in the Contract amount or scheduled time for CONSULTANT's claim unless expressly agreed to by AUTHORITY in writing and any such adjustments in the Contract amount so agreed to in writing shall be paid to CONSULTANT by AUTHORITY. No claim hereunder by CONSULTANT shall be allowed if asserted after final payments under this Contract.

Article 21 Insurance

In order to accomplish the indemnification herein provided for, but without limiting the indemnification, CONSULTANT shall secure and maintain throughout the term of the Contract the following types of insurance with limits as shown:

- 21.1 Professional Liability Insurance coverage in an amount not less than \$1,000,000, per claim and in the aggregate. CONSULTANT shall secure and maintain this insurance throughout the term of this Contract and for a minimum of three (3) years after completion and acceptance of Services

by AUTHORITY.

- 21.2 Workers' Compensation Insurance or state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with \$250,000 limits, covering all persons providing Services on behalf of CONSULTANT.
- 21.3 Comprehensive General Liability Insurance or Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Broad-Form Property Damage and Independent Contractors' Liability, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and \$3,000,000 in the aggregate written on an occurrence form.
- For products and completed operations a \$2,000,000.00 aggregate shall be provided.
- 21.4 Comprehensive Automobile Liability Coverage, including owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and in the aggregate written on an occurrence form.
- 21.5 Proof of Coverage. CONSULTANT shall immediately furnish certificates of insurance to AUTHORITY evidencing the insurance coverage required above, prior to the commencement of performance of Services hereunder, and such certificates shall include San Bernardino Associated Governments/San Bernardino County Transportation Authority and Fluor Corporation (project administration consultant) as additional insured on Comprehensive General Liability Insurance or Commercial General Liability Insurance and auto insurance. The certificates shall provide that such insurance shall not be terminated without thirty (30) days written notice to AUTHORITY, and CONSULTANT shall maintain such insurance from the time CONSULTANT commences performance of Services hereunder until the completion of such Services.

Article 22 Indemnity

CONSULTANT agrees to indemnify, hold harmless, and defend, with counsel approved by AUTHORITY, AUTHORITY, and their officers, employees (past and present), agents, and representatives including Fluor Corporation, from and against:

- 22.1 Any claim, cause of action, liability, loss, cost or expense arising from infringement or improper appropriation or use by AUTHORITY of trade secrets, proprietary information, know-how, copyright rights or inventions, arising out of the use of methods, processes, designs, information, or other items furnished or communicated to AUTHORITY

by CONSULTANT in connection with performance of Services; and

- 22.2 Any claim, cause of action, liability, loss, cost or expense, on account of injury to or death of persons or damage to or loss of property which arises out of or is alleged to arise out of the negligence or wrongful acts of CONSULTANT or its subcontractors, employees, or agents, in the performance of Services, and includes any and all expenses, including attorneys' fees, incurred by AUTHORITY for legal action to enforce CONSULTANT's indemnification obligations hereunder.

Article 23 Damages due to Errors and Omissions

- 23.1 Architect-Engineer Consultants shall be responsible for the professional quality, technical accuracy, and coordination of all services required under this Agreement. A firm may be liable for AUTHORITY costs resulting from errors or deficiencies in designs furnished under its Agreement.
- 23.2 When a modification to a construction contract is required because of an error or deficiency in the services provided under this A&E Agreement, the contracting officer (with the advice of technical personnel and legal counsel) shall consider the extent to which the A&E Consultant may be reasonably liable.
- 23.3 AUTHORITY's contracting officer shall enforce the liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in the AUTHORITY's interest. The contracting officer shall include in the Agreement file a written statement of the reasons for the decision to recover or not to recover the costs from the firm.

Article 24 Ownership of Drawings and Data

All drawings, specifications reports and other data developed by CONSULTANT under this Contract shall become the property of AUTHORITY when prepared, whether delivered to AUTHORITY or not.

Article 25 Subcontracts

- 25.1 CONSULTANT shall not subcontract performance of all or any portion of Services under this Contract, excepting to subcontractors listed in the CONSULTANT's proposal, without first notifying AUTHORITY of the intended subcontracting and obtaining AUTHORITY's Project Manager's approval in writing of the subcontracting and the subcontractor. The definition of subcontractor and the requirements for subcontractors hereunder shall include all lower-tier subcontracts.
- 25.2 CONSULTANT agrees that any and all subcontractors of CONSULTANT will comply with the terms of this Contract applicable to the portion of

Services performed by them. If requested by AUTHORITY, CONSULTANT shall furnish AUTHORITY a copy of the proposed subcontract for AUTHORITY's approval of the terms and conditions thereof and shall not execute such subcontract until AUTHORITY has approved such terms and conditions. AUTHORITY approval shall not be unreasonably withheld.

25.3 Approval by AUTHORITY of any Services to be subcontracted and the subcontractor to perform said Services will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Services.

25.4 Any substitution of subcontractors must be approved in writing by AUTHORITY's Contract Manager.

Article 26 Inspection and Access

AUTHORITY shall at all times have access during normal business hours to CONSULTANT's operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by AUTHORITY, shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Services or products.

Article 27 Independent Contractor

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Services provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. AUTHORITY shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Services or as to the manner, means and methods by which Services are performed. All workers furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subcontractor(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of AUTHORITY.

Article 28 Precedence

28.1 The Contract documents consist of these General Terms and Conditions and Attachment "A", Scope of Services, Attachment "B", Billing Rate Schedule, CONSULTANT's Statement of Qualifications and AUTHORITY's Request for Qualifications are incorporated herein by reference.

28.2 The following order of precedence shall apply:

- 28.2.1 This Contract, its General Terms and Conditions, and Attachments
- 28.2.2 CONSULTANT's Statement of Qualifications
- 28.2.3 AUTHORITY's Request for Qualifications

28.3 In the event of an express conflict between the documents listed in Article 28.2, or between any other documents which are a part of the Contract, CONSULTANT shall notify AUTHORITY immediately and shall comply with AUTHORITY's resolution of the conflict.

Article 29 Communications and Notices

29.1 Any and all notices permitted or required to be given hereunder shall be deemed duly given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier. Each such notice shall be sent to the respective party at the address indicated below or to any other address as the respective parties may designate from time to time by a notice given in accordance with this Article. A change in address may be made by notifying the other party in writing.

For CONSULTANT:

Name: [CONSULTANT]
Address: []

Attn: []
Phone: []
Fax: []

For AUTHORITY:

Name: San Bernardino Associated Governments
Address: 1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715
Attn: Mr. Darren Kettle
Phone: (909) 884-8276
Fax: (909) 388-2002

29.2 All communications pursuant to or in connection with this Contract shall be marked with AUTHORITY's Contract and job numbers.

Article 30 Disputes

30.1 In the event any dispute arises between the parties hereto under or in connection with this Contract (including but not limited to disputes over

payments, reimbursements, costs, expenses, Services to be performed, Scope of Services and/or time of performance), the dispute shall be decided by the Contract Manager of AUTHORITY or his duly authorized representative within thirty (30) calendar days after notice thereof in writing which shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have thirty (30) calendar days after receipt of the decision in which to file a written appeal thereto with the Executive Director of AUTHORITY. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such appeal shall be decided by a court of competent jurisdiction.

- 30.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

Article 31 Gratuities

CONSULTANT, its employees, agents, or representatives shall not offer or give to an officer, official, or employee of AUTHORITY or Fluor Corporation, gifts, entertainment, payments, loans, or other gratuities to influence the award of a Contract or obtain favorable treatment under a Contract.

Article 32 Review and Acceptance

- 32.1 All Services performed by CONSULTANT shall be subject to periodic review and approval by the representatives of AUTHORITY at any and all places where such performance may be carried on. Failure of AUTHORITY to make such review, or to discover defective Work, shall not prejudice the rights of AUTHORITY at the time of final acceptance. All Services performed by CONSULTANT shall be subject to periodic and final review and acceptance by AUTHORITY upon completion of all Services.
- 32.2 When Services have been completed and the products have been delivered to AUTHORITY, CONSULTANT shall so advise AUTHORITY in writing. AUTHORITY acceptance shall be based on those provisions set forth in the Scope of Services, Attachment "A". Within thirty (30) working days of receipt of such notice, AUTHORITY shall give CONSULTANT written notice of final acceptance or any Services and Work that have yet to be completed or which are unsatisfactory.
- 32.3 In the event AUTHORITY does not accept Services or Products as submitted then upon their subsequent completion, CONSULTANT shall again so notify AUTHORITY, and within the above specified time period AUTHORITY shall give CONSULTANT written notice of final acceptance or notice that the specified unfinished Services or Products have not yet been completed or are still not satisfactory. In the latter instance, the foregoing procedures with respect to such specified

unfinished Services or Products will be repeated. Final acceptance shall not constitute a waiver or abandonment of any rights or remedies available to AUTHORITY under this Contract or by law.

Article 33 Safety

CONSULTANT shall comply strictly with all local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Services hereunder.

Article 34 Assignment

CONSULTANT shall not assign this Contract wholly or in Part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of AUTHORITY. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the parties hereto.

Article 35 Amendments

This Contract may only be changed by an amendment duly executed by CONSULTANT and AUTHORITY except, that changes to the Contract to implement administrative changes such as approved changes in key personnel may be made by administrative amendment signed by CONSULTANT and AUTHORITY's Contracts Manager or other duly authorized representative.

Article 36 Governing Law and Venue

This Contract shall be subject to the laws and jurisdiction of the State of California. The parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Contract will be the Central District of San Bernardino County. Each party hereby waives any law or rule of court that would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.

Article 37 Suspension of Services

37.1 AUTHORITY may at any time, and from time to time, by written Notice ("Suspension of Services Order") to CONSULTANT, suspend further performance of Services by CONSULTANT. Said Suspension of Services Order shall specify the date of suspension and the estimated duration of the suspension. Upon receiving any such Suspension of Services Order, CONSULTANT shall promptly suspend further performance of Services to the extent specified, and during the period of such suspension shall

properly care for and protect all Services in progress. Such suspensions shall not exceed more than one hundred twenty (120) consecutive calendar days each, nor aggregate more than one hundred eighty (180) calendar days; and, if they do, CONSULTANT may, if it so elects by notifying AUTHORITY in writing, consider that this Contract has been terminated for convenience of AUTHORITY. If the Contract has not been so terminated by CONSULTANT, then AUTHORITY may at any time withdraw the Suspension of Services Order as to all or part of the suspended Services by written notice to CONSULTANT specifying the effective date and scope of withdrawal, and CONSULTANT shall resume diligent performance of Services for which the suspension is withdrawn on the specified effective date of withdrawal.

- 37.2 If CONSULTANT believes that any such suspension or withdrawal of suspension justifies modification of the Contract compensation, CONSULTANT may request additional compensation and CONSULTANT and AUTHORITY will attempt to negotiate a mutually acceptable change in compensation and amend the Contract accordingly. If CONSULTANT and AUTHORITY are unable to agree on a change in compensation, CONSULTANT may request adjustments to either the Contract amount or the scheduled time for performance in accordance with Article 20, Claims herein. In no event shall CONSULTANT be entitled to any prospective profits or any damages because of such suspension.

Article 38 Contingent Fee

The CONSULTANT warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, AUTHORITY has the right to annul this Contract without liability, pay only for the value of Services actually performed, or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Article 39 Location of Performance

- 39.1 This contract is awarded based upon CONSULTANT'S agreement and statements contained in CONSULTANT'S proposal/qualifications document. Due to the nature and proportional amounts of engineering and environmental work, there could be instances whereby a subconsultant's portion of the project is greater than 49%. In the event this occurs, CONSULTANT shall bring it to AUTHORITY's attention immediately. AUTHORITY's Contract Manager will have the authority to grant exception.

Article 40 Entire Document

- 40.1 This Contract and its attachments constitute the sole and only agreement governing Services and supersedes any prior understandings, written or oral, between the parties respecting the within subject matter. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been incorporated into this Contract.
- 40.2 No agent, employee or representative of AUTHORITY has any authority to bind AUTHORITY to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.
- 40.3 As this Contract was jointly prepared by both parties, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either party.

Article 41 Attorney's Fees

If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Article 22, Indemnity.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year below written, but effective as of the day and year first set forth above.

[CONSULTANT]

By: _____

Date: _____

San Bernardino Associated Governments

By: _____

Dennis Hansburger, President
SANBAG Board of Directors

Date: _____

APPROVED AS TO LEGAL FORM:

By: _____

Jean-Rene Basle
SANBAG Counsel